



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,072	10/29/2003	Mark J. Clemen JR.	31072-2-UT	8141

5179 7590 05/04/2005

PEACOCK MYERS AND ADAMS P C
P O BOX 26927
ALBUQUERQUE, NM 871256927

EXAMINER

LEUNG, PHILIP H

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/697,072	Applicant(s) CLEMEN, MARK J.	
	Examiner Philip H Leung	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's election without traverse of Group II, Claims 15-24 in the reply filed on 1-21-2005 is acknowledged.
2. Claims 1-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1-21-2005.
3. The drawings filed 10-29-2003 are acceptable.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
5. Claims 15-19, 23 and 24 and are rejected under 35 U.S.C. 102(b) as being anticipated by Goldblum (US 5,530,412).

Goldblum shows a method of adaptive electromagnetic wave stirring (see col. 1, line 6 – col. 2, line 53) the method comprising the steps of: providing an electromagnetic wave chamber 10; disposing a device to be tested EUT 26 within the chamber; providing one or more power amplifiers 56; disposing one or more sensors 74 within said electromagnetic wave chamber; providing one or more electromagnetic wave generators 52; obtaining readings from the sensors

Art Unit: 3742

(with the use of 70, 72, 76, 78). In regard to claims 17-19, 23 and 24, it also includes computer 72 as the claimed processor and an analyzer 84 as the claimed (see Figures 1 and 2 and col. 5, line 19 – col. 6, line 5).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldblum (US 5,530,412), in view of Fagrell (US 6,403,939).

As pointed out above, Goldblum shows the method as claimed except for the explicit showing of the use of Fourier Transforms for analyzing the data. Fagrell shows that it is well known in the art of microwave heating devices to perform mathematical operation for obtaining spectrum information from the detected signals for further processing and control (see Figures 1 and 2, col. 6, lines 54-64 and col. 11, lines 9-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Goldblum to perform any well known mathematical operation, including Fourier Transform on the measured signals for spectrum analysis in order to obtain precise feedback information for more accurate test result and better control, in view of the teaching of Fagrell. In regard to claims 21 and 22, Fagrell also shows that the amplifiers 29 and 30 are adjusted according to the measured signals from meters 34-38 (see col. 12, line 16 – col. 13, line 42).

Art Unit: 3742

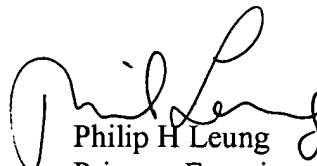
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kempa et al (US 5,417,494) and Johnson et al (US 5,521,360) are further cited to show microwave testing devices having similar claimed features.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on (571) 472-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip H Leung
Primary Examiner
Art Unit 3742

P.Leung/pl
4-28-2005